



JUN 25 2009

Dr. C. Timothy Summerlin  
President  
Schreiner University  
2100 Memorial Boulevard  
Kerrville, TX 78028

Sent Via Federal Express  
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
OPE-ID: 00361000

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Schreiner University (Schreiner) \$55,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 et seq. (Title IV, HEA programs). Under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on Schreiner's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations in 34 C.F.R. §§ 668.41 and 668.46.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish, and distribute an annual security report by October 1 of each year. 34 C.F.R. § 668.41(e). The annual security report must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). In addition, the annual security report must report statistics for the three most recent calendar years concerning the occurrence of certain crimes on campus, in or on certain non-campus buildings or property and on public property. 34 C.F.R. § 668.46(c). The crimes that must be reported include: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary; motor vehicle theft; arson; and arrests for liquor law violations, drug law violations and illegal weapons possession. An institution must also specifically report on any crime that manifests evidence of a hate crime. 34 C.F.R. § 668.46(c). The annual security report must be distributed to current students and employees and must be made available to applicants for admission and employment to provide them with accurate, complete and timely information about crime and safety on campus. 34 C.F.R. § 668.41(e). Institutions must also submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5).

Administrative Actions and Appeals Division  
830 First Street, NE | Union Center Plaza III | Washington, DC 20002-8019

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On February 21, 2008, the Department received a complaint about Schreiner's compliance with the Clery Act. On March 5, 2008, the Department asked Schreiner to respond to the issues raised in the complaint and to provide copies of certain institutional publications. Schreiner responded to the Department on March 24, 2008. After reviewing the complaint and the material submitted by Schreiner, the Department issued a Program Review Report to Schreiner on September 18, 2008. That Program Review Report included a finding that Schreiner had not complied with the Clery Act and the Department's implementing regulations. The Department received Schreiner's final response to the Program Review Report on November 14, 2008. In its response, Schreiner stated that it had fully complied with the required actions specified in the Program Review Report. The Department issued its Final Program Review Determination (FPRD) letter to Schreiner on February 18, 2009. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD, which concluded that Schreiner failed to accurately report its crime statistics by omitting one incident.

#### **SCHREINER FAILED TO REPORT ONE FORCIBLE SEX OFFENSE INCIDENT IN ITS CRIME STATISTICS**

The Department's regulations require that institutions participating in the Title IV, HEA programs compile and publish for the three most recent calendar years, accurate and complete campus crime statistics to inform current and prospective students and employees of important information about safety and security on campus. 34 C.F.R. § 668.46(c)(1). These statistics must include incidents of forcible sex offenses that are reported to local police agencies or to a campus security authority. 34 C.F.R. § 668.46(c)(1)(ii). An institution must record a crime statistic in its annual security report for the calendar year in which the crime was reported to a campus security authority. 34 C.F.R. § 668.46(c)(2). The statistical report must be distributed to students and employees as part of the annual security report by October 1 of each year, and it must be electronically submitted to the Department for its inclusion in the Campus Crime and Security Website. The Department has established timeframes within which institutions must electronically submit that information. 34 C.F.R. §§ 668.41(e)(1) – (e)(5).

Schreiner did not provide accurate crime statistics to its students and employees via the annual security report and failed to meet its obligations under the Clery Act and the Department's regulations. In particular, Schreiner's annual security reports for the October 1, 2006 and October 1, 2007 distributions did not comply with the Clery Act requirements. The Department found evidence that campus security authorities were aware of a forcible sex offense that was reported during the 2005 calendar year. However, Schreiner did not include this incident in its crime statistics for its October 1, 2006 and October 1, 2007 annual security reports. By excluding this incident from the annual security reports, Schreiner misrepresented its crime statistics for forcible sex offenses.

Schreiner failed to include in its reports for 2006 and 2007 information that a forcible sex offense was reported to have occurred on campus on or about January 22, 2005. On February 21, 2008, the Department received a complaint that alleged that Schreiner had failed to include this

incident in its crime statistics. One of the exhibits included with the complaint was a copy of an incident report that was filed with the local police agency, the Kerrville Police Department, on May 23, 2005. Another exhibit included with the complaint was a February 1, 2007 article from DailyTimes.com, which stated in part:

Fred Gamble, vice president for administration and finance, oversees Schreiner's security department. After hearing of the allegations in August 2005, Gamble requested the family fill out a formal complaint and provide a copy of the police report.

"Neither of these requests was ever met," Gamble said in the same written statement. "When approached by the Kerrville Police Department, we cooperated fully with their investigation."

On March 5, 2008, the Department requested that Schreiner explain why the incident was excluded from its crime statistics. Schreiner responded on March 24, 2008, that "[t]he alleged incident... was not reported because Schreiner had not received any details of the alleged crime from either the accuser or her parents". Furthermore, Schreiner stated that the complaint to the Department "appears to be an effort to harass and intimidate Schreiner..."

However, in 2005, Schreiner was informed by the Kerrville Police Department that an alleged forcible sex offense had occurred in one of its residence halls. Although Schreiner alleges that the apparent victim and her family did not cooperate with Schreiner by filling out a complaint form, or otherwise directly providing details to Schreiner, this alleged lack of cooperation did not relieve Schreiner of its obligation to report the incident.

For Clery Act purposes, an incident is considered to be reported to an institution when it is brought to the attention of a campus police, security, or other campus security authority. 34 CFR § 668.46(a) ("campus security authority"), (b)(2)(iii) and (c)(2). No requirement exists that a criminal report be made to, or investigated by, the police or a security officer or that a finding of guilt or responsibility result. An institution may only exclude incidents that have been officially unfounded (i.e., a determination is made by a law enforcement officer that an incident did not occur). In this specific case, the Kerrville Police Department did not make such a determination. Therefore, Schreiner was obligated to include the reported sex offense in its campus crime statistics.

An institution may not exclude an incident about which it is aware simply because a formal process was not properly followed. When the Kerrville Police Department contacted Schreiner officials with responsibility over campus security about this incident in 2005, the crime statistics reporting requirement was met. In fact, an institution is required to make a reasonable, good faith effort to obtain campus crime statistics from local or State police agencies and include that information in its campus crime statistics. Therefore, Schreiner was required to include this incident in its crime statistics as a forcible sex offense.

In its response to the Program Review Report, Schreiner concurred with the Department's finding and stated that it had revised its crime statistics and published corrected crime data in its

security web site. Schreiner's revised crime statistics on its website for calendar year 2005 now indicate that one forcible sex offense occurred in its on-campus residence halls. Caveats have also been added to Schreiner's crime statistics data reported to the Department.

The Clery Act requires institutions to ensure the accuracy of the data when it is presented to students and employees who can use the data to make decisions affecting their personal safety. Students and employees must be able to rely on the institution's reported statistics. Schreiner's correction of the crime statistics two or more years after the original issuance of the report does not excuse its earlier failure to comply with its legal obligations. The correction of violations does not diminish the seriousness of not correctly reporting these incidents at the time they occurred.

Schreiner's failure to distribute accurate and complete crime statistics to current and prospective students and employees deprived the campus community of important security information and, thus, constituted a misrepresentation of safety and security on campus. Therefore, the campus community was not fully informed, in accordance with Clery Act requirements, to adequately provide for its own safety and security and that of others.

## II.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision in In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for Schreiner is the 2007-08 award year. According to Department records, Schreiner received approximately \$1,047,211 in Federal Pell Grant funds; approximately \$5,555,046 in Federal Family Educational Loan (FFEL) funds and approximately \$164,502 in Campus-Based funds. The amount of Title IV, HEA program funds received by or on behalf of students attending Schreiner is set forth in Enclosure 2 to this letter. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$927,672; for institutions participating in the FFEL and/or the William D. Ford Federal Direct Loan programs, the median funding level is \$2,384,891, and for institutions participating in the Campus-Based programs, the median funding level is \$268,407. Accordingly, the Department will consider Schreiner a large institution because its funding levels for Pell Grant and FFEL funds exceeds the median funding levels for those Title IV, HEA programs.

The inaccurate information presented by Schreiner as a result of its failure to comply with the HEA and the Department's regulations deprived the campus community of vital information on campus security and denied individuals the opportunity to take adequate steps to provide for their own safety and that of others. Therefore, Schreiner's failure to comply with the Clery Act amounts to a substantial misrepresentation under 34 C.F.R. § 668.72 and warrants the imposition of a fine as described below.

After considering the gravity of the violations and the size of the institution, I have assessed \$27,500 for each of the two years (2006 and 2007) that Schreiner failed to accurately report the number of forcible sex offenses in its crime statistics. If an institution does not accurately report its statistics, students and employees are unable to make informed decisions about the safety of the campus community. The failure to properly disclose crime statistics continued over a two year period, and warrants a fine of \$27,500 for each of the two years.

The fine of \$55,000 will be imposed on July 16, 2009, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Schreiner may submit both a written request for a hearing and written material indicating why a fine should not be imposed. If Schreiner chooses to request a hearing or submit written material, you must write to me at:

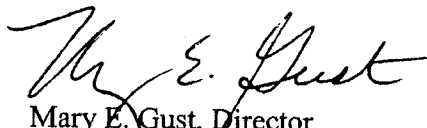
Administrative Actions and Appeals Division  
U.S. Department of Education  
Federal Student Aid/Program Compliance  
830 First Street, NE - UCP-3, Room 84F2  
Washington, DC 20002-8019

Upon receipt of such a request, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of Schreiner's case to a hearing official who will conduct an independent hearing. Schreiner is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Schreiner does not request a hearing but submits written material instead, I will consider that material and notify Schreiner of the amount of fine, if any, that will be imposed.

**ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT SCHREINER SUBMITS MUST BE RECEIVED BY JULY 16, 2009; OTHERWISE, THE \$55,000 FINE WILL BE EFFECTIVE ON THAT DATE.**

If you have any questions or desire any additional explanation of Schreiner's rights with respect to this action, please contact Lauren Pope of my staff at 202/377-4282.

Sincerely,



Mary E. Gust, Director  
Administrative Actions and Appeals Division

Enclosures

COPY



February 18, 2009

Dr. C. Timothy Summerlin  
President  
Schreiner University  
2100 Memorial Boulevard  
Kerrville, TX 78028

**Certified Mail**  
**Return Receipt Requested**

No. 7002 3150 0005 2494 2468

RE: **Final Program Review Determination**  
OPE ID: 00361000  
PRCN: 200840626762

Dear Dr. Summerlin:

The School Participation Team – Dallas issued a program review report on September 18, 2008, covering Schreiner University's (SU) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) included in Section 485(f) of the Higher Education Act of 1965, as amended (HEA). SU's final response was received on November 14, 2008.

**Purpose:**

Final determinations have been made concerning all of the outstanding findings of the program review report. The issuance of this Final Program Review Determination (FPRD) letter closes the Department's Clery Act review of SU. SU does not have any institutional financial liabilities relating to the misuse of federal funds based on this FPRD. Therefore, SU may **not** appeal this FPRD letter. The purpose of this letter is to notify SU of a possible adverse administrative action. This FPRD is being referred to the Administrative Actions and Appeals Division (AAAD) for consideration of possible adverse administrative action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution pursuant to 34 C.F.R. Part 668, Subpart G. If AAAD initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

Federal Student Aid, School Participation Team - Dallas  
1999 Bryan Street, Suite 1410  
Dallas, TX 75201-6817  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

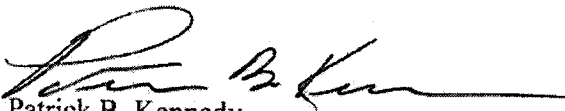
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**Record Retention:**

Program records relating to the period covered by the program review must be retained until the later of: resolution of the loans, claims or expenditures questioned in the program review; or the end of the retention period otherwise applicable to the record under 34 C.F.R. §§ 668.24(e)(1), (e)(2), and (e)(3).

If you have any questions regarding this letter, please contact Mr. Jesus Moya at (214) 661-9472.

Sincerely,



Patrick B. Kennedy  
Area Case Director

**Enclosures**

cc: Toni L. Bryant, Financial Aid Administrator  
Mr. David Linkletter, Texas Higher Education Coordinating Board  
Dr. Belle S. Wheelan, President, Southern Association of Colleges and Schools  
Commission on Colleges  
Dr. Cheryl D. Cardell, Southern Association of Colleges and Schools Commission on  
Colleges  
Ms. Carol Lindsey, Vice President of Policy and Compliance, Texas Guaranteed Student  
Loan Corporation  
Mr. Bruce Bement, Director of Compliance, USA Funds

Prepared for

**Schreiner University**



START HERE  
GO FURTHER  
FEDERAL STUDENT AID

OPE ID 00361000

PRCN 200840626762

Prepared by:

U.S. Department of Education

Federal Student Aid

School Participation Team - Dallas

## Final Program Review Determination

February 18, 2009

1999 Bryan St., Suite 1410, Dallas, TX 75201-6817

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Schreiner University  
OPE ID 00361000  
PRCN 200840626762  
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**A. Institutional Information**

Schreiner University  
2100 Memorial Boulevard  
Kerrville, TX 78028-5697

Type: Private nonprofit

Highest Level of Offering: Master's Degree or Doctor's Degree

Accrediting Agency: Southern Association of Colleges and Schools Commission on Colleges

Current Student Enrollment: 982 (Fall 2007)

% of Students Receiving Title IV: 80% (2007-2008)

Title IV Participation (source: PEPS):

	2006-2007
Federal Pell Grant	\$ 959,259
Federal Supplemental Educational Opportunity Grant (FSEOG)	\$ 130,311
Federal Work-Study (FWS)	\$ 90,187
Federal Family Education Loan (FFEL)	\$ 5,860,910

Default Rate FFEL:	2006	7.8%
	2005	4.6%
	2004	6.0%

## **B. Scope of Review**

The U.S. Department of Education (the Department) received a complaint on February 21, 2008, about Schreiner University's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), § 485(f) of the Higher Education Act of 1965, as amended (HEA). The Department requested that Schreiner University respond to the issues raised in the complaint and to provide copies of certain institutional publications for the purpose of conducting an off-site review.

The focus of the Department's review was to determine Schreiner University's compliance with the Clery Act with respect to the specific issues raised in the complaint.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning SU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve SU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

## **C. Findings and Final Determinations**

### **Resolved Findings**

SU has taken the corrective actions necessary to resolve findings 2 and 3 of the program review report. Therefore, these findings are considered closed. The program violations identified in the remaining finding are discussed below.

### **Findings with Final Determinations**

#### **Finding 1. Failure to Accurately Report Crime Statistics – Excluded Incident**

*Citation: Institutions are required to publish and distribute, by October 1 of each year, an annual security report that contains required crime statistics, as well as required statements and policies, to its current students and employees. Institutions must also inform prospective students and employees of the report's availability and provide a copy upon request.*

*The annual security report must report crime statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of the following offenses:*

- *Criminal homicide (murder and nonnegligent manslaughter);*
- *Sex offenses (forcible sex offenses and nonforcible sex offenses);*
- *Robbery;*
- *Aggravated assault;*
- *Burglary;*
- *Motor vehicle theft;*
- *Arson;*
- *Arrests for liquor law violations, drug law violations, and illegal weapons possession; and*
- *Persons not included in the above category who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.*

34 C.F.R. § 668.46 (the implementing regulations of the The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act)

***Noncompliance:*** *Schreiner University failed to report one incident of a forcible sex offense for calendar year 2005 in its crime statistics for its October 1, 2006, and October 1, 2007, annual security reports.*

*The Department received a complaint on February 21, 2008, that Schreiner University had failed to include one incident of a forcible sex offense that occurred on or about January 22, 2005 in its crime statistics. One of the exhibits in the complaint was an article from The Daily Times.com dated February 1, 2007, that stated,*

*"[institutional official], vice president for administration and finance, oversees Schreiner's security department. After hearing of the allegations in August 2005, [institutional official] requested that the family fill out a formal complaint and provide a copy of the police report.*

*'Neither of these requests was ever met,' [institutional official] said in the same written statement. 'When approached by the Kerrville Police Department, we cooperated fully with their investigation.'"*

*On March 5, 2008, the Department requested that Schreiner University explain why the incident was excluded from its crime statistics. Schreiner University responded on March 24, 2008, that the incident was not reported because "the accuser or her parents" did not provide any details of the incident to Schreiner University. Further, Schreiner University stated that the complaint to the Department "appears to be an effort to harass and intimidate Schreiner...."*

*Schreiner University was informed by Kerrville Police Department in 2005 that an alleged forcible sex-offense had occurred in one of its residence halls. Although the victim and her family did not cooperate with Schreiner University by filling out a complaint form, or otherwise directly providing details to Schreiner University, this lack of cooperation did not relieve Schreiner University of its obligation to report the incident. For Clery Act purposes, an incident is considered to be reported to an institution when it is brought to the attention of campus police, security, or other campus security authority.*

*An institution may only exclude incidents which have been officially unfounded (i.e., a determination was made by a law enforcement authority that an incident did not occur). In this specific case, the Kerrville Police Department classified the case as "suspended." Therefore, unless the Kerrville Police Department determined that the alleged incident did not occur, Schreiner University was obligated to report the incident.*

*For crime statistics reporting purposes, 34 CFR § 668.46(c)(2) states that "An institution must record a crime statistic in its annual security report for the calendar year in which the crime was reported to a campus security authority." Further, it is the Department's position (per The Handbook for Campus Crime Reporting) that institutions are required to report offenses even if such information comes from calls for service, complaints or investigations.*

*An institution may not exclude an incident about which it is aware simply because a formal process was not properly followed. When the Kerrville Police Department contacted Schreiner University officials with responsibility over campus security about this incident in 2005, the crime statistics reporting requirement was met.*

**Required Action:** *Schreiner University must immediately revise its crime statistics to include the forcible sex offense that occurred in one of its residence halls on or about January 22, 2005. The forcible sex offense must be reported as a statistic for calendar year 2005 because that is the year in which Schreiner University was informed of the offense.*

*In addition, Schreiner University must review its information to determine if other reportable incidents were excluded because a victim or other party did not directly provide details to Schreiner University or did not follow a prescribed procedure. Schreiner University must provide this office with the results of its review.*

*Schreiner University must also develop and submit to this office a policy that ensures that all reportable incidents are included in its crime statistics. This policy must require that all institutional officials who fall under the definition of "campus security authority," as defined in 34 C.F.R. 668.46(a), are informed of their responsibility to notify the office responsible for compiling statistics of any and all reportable incidents.*

**SU's Response:** SU responded that it had complied with all the requirements of the program review report and that it had revised its crime statistics and published corrected crime data in its security web site.

**Final Determination:** SU's revised crime statistics on its website for calendar year 2005 now indicate that one forcible sex offense occurred in its on-campus residence halls. However, the Department's campus security data for SU does not reflect the correction to SU's crime statistics for the October 1, 2006, and October 1, 2007, annual security reports because 2005 calendar year data can no longer be changed by institutions.

However, an explanation of the error can be made by entering information as a caveat. SU must contact the Department's Campus Crime Help Desk at (800) 435-5985 and request that its crime statistics be amended and reflected on the Department's public website by adding the following caveat:

Line C (Sex Offenses – Forcible) should read 1 for 2005

The caveat should be added to the following areas:

Criminal Offenses – On campus  
Criminal Offenses – On campus – Residence Halls.

Please notify this office when the necessary caveats have been submitted to the Department.

083610

Schreiner University

2100 Memorial Boule

Kerrville

2007-2008

Total

Total Pell Grants	\$5,555,046	\$6,766,759
Total Campus Based	\$5,555,046	\$1,047,211
FSEOG	\$2,191,063	\$164,502
FWS	\$1,943,631	\$98,984
Perkins	\$1,420,352	\$65,518
Total Unsubsidized	\$0	\$0
PLUS	\$0	
Total Unsubsidized	\$0	
PLUS	\$0	

Medians

These figures are a "snapshot" as of 10/1/2009 of disbursements made to Federal Student Aid recipients. These figures should be used for estimation purposes only.

Notes: Federal Pell Grant, Federal Family Education Loan (FFEL), Federal Direct Loan (FDL), and Federal Perkins Loan disbursement amounts have been queried from the National Student Loan Data System (NSLDS). Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work Study (FWS) disbursement amounts have been queried from the eCampus-Based System. Amounts may have changed due to adjustments made by the institution or the Department of Education since the "as of" date. If more current information is needed, consult the

P	
x	
Based Disbursements, All Institutions	\$2,384,891
Based Disbursements, All Institutions	\$927,672
Based Disbursements, All Institutions	\$268,407
OK	